

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

AMERISURE INSURANCE COMPANY,)

Plaintiff,)

v.)

CIVIL ACTION NO.: 2:06-CV-1097-MHT

LOWDER CONSTRUCTION)
COMPANY, INC. and COLONIAL)
REALTY LIMITED PARTNERSHIP,)
d/b/a COLONIAL PROPERTIES)
REALTY LIMITED PARTNERSHIP,)

Defendants.)

NOTICE OF SETTLEMENT

COMES NOW the defendant, Lowder Construction Company, Inc., and provides this Court and all parties of resolution of the issues herein by settlement as follows:

1. Amerisure brought this declaratory judgment action seeking construction of a policy, or policies, of insurance issued by Amerisure and insuring Lowder.
2. Amerisure sought to determine what, if any, duty it had to defend and indemnify Lowder for claims made against Lowder by Colonial Properties in litigation pending in Florida (the underlying action).
3. Amerisure denied any duty to defend or indemnify Lowder in the underlying action.
4. Lowder filed a counterclaim seeking a declaration that Amerisure was obligated to provide it both a defense and indemnity in the underlying action.
5. Lowder has been provided a defense in the underlying action under a reservation of rights.

6. The underlying action has now been settled and the parties in the underlying action are executing and exchanging settlement documents and performing the settlement agreement.

7. The issues between Amerisure and Lowder are now moot.

8. The pending motions between Lowder and Amerisure are now moot.

9. The parties to this action are preparing and circulating a stipulation that will bring this matter to a final conclusion.

10. There are no issues for this Court to resolve between the parties.

WHEREFORE, Lowder requests this Court provide it a period of 14 days to provide the Court with a joint stipulation bringing this matter to a final conclusion.

BALL, BALL, MATTHEWS & NOVAK, P.A.

/s/ Tabor R. Novak, Jr. – NOV001
TABOR R. NOVAK, JR.

/s/ Jack Owen – OWE009
JACK OWEN
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Lowder Construction Company, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of October, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF-system which will send notification of such filing to the following:

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OF COUNSEL